



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,151	07/23/2003	Glen J. Anderson	AC-09188-US-TR	7986
90895	7590	03/31/2010	EXAMINER	
WPAT, PC 2030 Main Street Suite 1300 Irvine, CA 92614			MURDOUGH, JOSHUA A	
			ART UNIT	PAPER NUMBER
			3621	
			MAIL DATE	DELIVERY MODE
			03/31/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/625,151	Applicant(s) ANDERSON ET AL.	
	Examiner JOSHUA MURDOUGH	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 34-42 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 34-42, and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. This action is responsive to Applicants' amendments received 1 December 2009.
2. This action has been assigned paper number 20100315 for reference purposes only.
3. Claims 1-6, 34-42, and 44 are pending.
4. Claims 1-6, 34-42, and 44 have been examined.

Claim Rejections - 35 USC § 112 1st Paragraph

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-6, 34-42, and 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

7. Claim 1 recites "a product identification code comprising a product key" which is new matter. According to Applicants' specification, "[t]he product codes 155 are identification codes that protect against use of unauthorized copies of the products 159" (Specification, Page 5, Lines 21-22) and "[t]he product codes 155 are also known as product keys, product passwords, certificates of authenticity, or product serial numbers" (Specification, Page 5, Lines 23-25). Because the "product codes 155 are identification codes," the Examiner understands them to

correspond with the claimed "product identification code." Because the "product codes 155 are also known as product keys" according to Applicants' specification, the Examiner understands "product codes" to be the same as "product keys." Because "product codes 115" are "product identification codes" and because "product codes" are "product keys," the Examiner further understands that a "product identification code" is a "product key." However, claim 1, as amended sets forth a "product key" as part of a "product identification code." Applicants' specification sets a "product key" forth as being the same thing as a "product identification code" not as being part of one. Because the specification shows the "product identification code" to be the same as the "product key" and the claims are directed to a "product identification code comprising a product key," the specification, as originally filed, does not show that Applicants had possession of the claimed invention at the time of filing.

8. Claims 2-4, 34-42, and 44 also contain the limitation "a product identification code comprising a product key," and are rejected under the same rationale.

Claim Rejections - 35 USC § 112 2nd Paragraph

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-6, 34-42, and 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. In claim 1, Applicants' recite "a product identification code comprising a product key" which is indefinite. As discussed above, a "product identification code" is the same as a

“product key” as set forth in Applicants’ specification. Because the “product identification code” is the same as a “product key” one of ordinary skill in the art would not understand the metes and bounds of “a product identification code comprising a product key.” It would not be understood how something can be part of itself.

12. Claims 2-4, 34-42, and 44 also contain the limitation “a product identification code comprising a product key,” and are rejected under the same rationale.

13. The Examiner finds that because particular claims are rejected as being indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO’s policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied as much as practically possible.

14. In particular, because “a product identification code comprising a product key” cannot be properly understood, the Examiner has interpreted “a product identification code comprising a product key” to be a single value.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-3, 5, 6, 34-36, 38-42, and 44, as understood by the Examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Hughes (US 2001/0044782).

17. As to claim 1, Hughes shows: A method comprising:
- a. receiving a request (message that sends "PID + H/W ID" in "Activation Server" **334** in Figure 2) transmitted over a communication network **336** from an electronic device **20** operatively connected to the communication network (communication occurs through the network, [0041]) requesting a product identification code comprising a product key ("license file," Figure 2; **118**) for a previously purchased product **222** that was purchased and provided ("Install," Figure 2) to the electronic device in a disabled state (not activated) before the request was transmitted (product is enabled after the calculated license matches the received license, [0043]), wherein the request includes an identification from the electronic device ("PID" product identifier and "H/W ID" hardware identifier, Figure 2);
 - b. finding a product identification code comprising the product key, which are associated with the identification ("The activation unit 110 checks the database 114 for any prior records involving the product ID," [0054]; Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2);
 - c. retrieving the product identification code comprising the product key, which are associated with the identification from a database of product codes ("the activation unit 110 evaluates the hardware IDs associated with the product IDs, Id.);
 - d. responsive to said retrieving, sending the product identification code comprising the product key to be delivered to the electronic device (Figure 2 & "the activation unit will compute a new license file, return it to customer computer," [0054]);

- e. delivering the product identification code comprising the product key to the electronic device (“The activation server 334 returns the license file over the network 336 to the customer computer 20,” [0041] & Figure 3, Step 160);
 - f. wherein the product identification code comprising the product key, in response to being delivered to the electronic device, converts the product from the disabled state to an enabled state that enables use of the previously purchased product on the electronic device (product is enabled when the calculated license matches the received license, [0043]), said previously purchased product not being usable on the electronic device until being enabled with the product identification code comprising the product key (Id.).
18. As to claim 2, Hughes further shows:
- g. copying the product identification code comprising the product key to a database **114** when the product is purchased, the copying the product identification code comprising the product key to the database including associating the product identification code comprising the product key with the identification in the database (Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2).
19. As to claim 3, Hughes further shows:
- h. the finding the product identification code comprising the product key further comprises finding the product identification code comprising the product key in the

database using the identification of the received request (“PID” and “H/W ID” are used to find the license file, [0054]).

20. As to claim 5, Hughes further shows:

i. the identification identifies the electronic device (“H/W ID” [0015]).

21. As to claim 6, Hughes further shows:

j. the identification identifies a customer (identifying the customer’s electronic device also identifies the customer indirectly).

22. As to claim 34, Hughes further shows:

k. sending the product identification code comprising the product key and the identification to a server when the product is purchased [0032] – [0034]; and

l. copying the product identification code comprising the product key and the identification to a database on the server (“the customer registers the software product with the activation authority,” [0034]).

23. As to claim 35, Hughes further shows:

m. retrieving the product identification code comprising the product key from the server to enable use of the product on the electronic device when the product is reinstalled on the electronic device [0047].

24. As to claim 36, Hughes further shows:

n. inserting the product identification code comprising the product key into an installation routine for reinstalling the previously purchased product to enable use of the product on the electronic device [0047].

25. As to claim 38, Hughes further shows:

o. the request for the product identification code comprising the product key is sent by the electronic device during an attempt to install the product on the electronic device [0016].

26. As to claim 39, Hughes further shows:

p. the request for the product identification code comprising the product key is sent by the electronic device as a part of an installation process to install the product on the electronic device [0016].

27. As to claim 40, Hughes further shows:

q. the request by the electronic device is transmitted (Figure 2) over a network **336**, and the product identification code comprising the product key is sent over the network to the electronic device (Figure 2).

28. As to claim 41, Hughes further shows:

r. the product was previously loaded on the electronic device making the request, and the request for the product identification code comprising the product key is made as part of a reinstallation process for the product on the electronic device [0047].

29. As to claim 42, Hughes further shows:

s. the sending of the product identification code comprising the product key does not include sending the product for which the product identification code comprising the product key enables use (Figure 2).

30. As to claim 44, Hughes further shows:

t. An apparatus **334** comprising:

u. a controller including a processor (inherent for a server to perform anything); and

v. a storage device (inherent to the existence of software on the server), wherein the storage device includes instructions (**110**, [0035]) , which when executed on the processor cause the controller to:

i. receive a request (“PID + H/W ID,” Figure 2) from an electronic device **20** transmitted over a communication network **336** requesting a product identification code comprising the product key (“license file,” Figure 2; 118) for a previously purchased product **222** in response to installation (“Install,” Figure 2) or reinstallation [0047] of the product on the electronic device, the request including an identification PID” product identifier and “H/W ID” hardware

identifier, Figure 2) from the electronic device and being received by the controller in response to installation or reinstallation of the product onto the electronic device by the user (Figure 2);

ii. in response to receiving the request, find and retrieve a product identification code comprising the product key, which are associated with the identification (“The activation unit 110 checks the database 114 for any prior records involving the product ID,” [0054]; Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2); and

iii. send the product identification code comprising the product key that was retrieved in response to receiving the request to the electronic device over the communication network to be inserted into an installation routine during installation or reinstallation of the product (Figure 2 & “the activation unit will compute a new license file, return it to customer computer,” [0054]) and convert the product from a disabled state in which the product is not usable on the electronic device into an enabled state in which the product is usable on the electronic device (product is enabled when the calculated license matches the received license, [0043]).

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. Claims 4 and 37 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hughes in view of Flickinger (US 2001/0025245).

33. Hughes shows as discussed above in regards to claim 1 and further shows:

w. loading the product identification code comprising the product key for the product onto the electronic device [0043]; and

x. copying the product identification code comprising the product key and the identification associated with the product identification code comprising the product key to a database to permit future retrieval of the product identification code comprising the product key using the identification [0054].

34. Hughes does not expressly show:

y. copying the product identification code comprising the product key to a database when the product and the electronic device are purchased; or

z. loading the product onto the electronic device by a manufacturer of the electronic device;

35. However, Flickinger shows a purchaser providing information at purchase so the manufacturer can register an item and provide the registration information to the purchaser [0039]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of

the invention to have modified the teachings of Hughes to have the electronic device manufacturer perform the registration normally performed by the purchaser. This would take the burden of completing the registration, warranty, and any other forms off the purchaser [0039].

36. Claim 44 is alternately rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes in view of Stanfield (Linux System Administration).

37. While it is the Examiner's principle position that a processor and memory are inherent to an authentication server, the Examiner provides the following, alternate, grounds of rejection in case a reviewing body disagrees.

38. As to claim 44, Hughes shows:

aa. An apparatus **334** comprising:

bb. instructions (**110**, [0035]) , which when executed on the processor cause the controller to:

iv. receive a request ("PID + H/W ID," Figure 2) from an electronic device **20** transmitted over a communication network **336** requesting a product identification code comprising the product key ("license file," Figure 2; 118) for a previously purchased product **222** in response to installation ("Install," Figure 2) or reinstallation [0047] of the product on the electronic device, the request including an identification PID" product identifier and "H/W ID" hardware identifier, Figure 2) from the electronic device and being received by the controller in response to installation or reinstallation of the product onto the electronic device by the user (Figure 2);

v. in response to receiving the request, find and retrieve a product identification code comprising the product key associated with the identification (“The activation unit 110 checks the database 114 for any prior records involving the product ID,” [0054]; Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2); and

vi. send the product identification code comprising the product key that was retrieved in response to receiving the request to the electronic device over the communication network to be inserted into an installation routine during installation or reinstallation of the product (Figure 2 & “the activation unit will compute a new license file, return it to customer computer,” [0054]) and convert the product from a disabled state in which the product is not usable on the electronic device into an enabled state in which the product is usable on the electronic device (product is enabled when the calculated license matches the received license, [0043]).

39. Hughes does not expressly show:

cc. a controller including a processor; and

dd. a storage device.

40. However, Stanfield shows a Pentium III or AMD Athlon processor and a 10 GB SCSI hard drive as being necessary components in "A Basic Server" (Page 25). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Hughes, to include a processor and storage in the server, if not already there. A processor is needed in a server to perform calculations and the storage is needed to store the values used in the calculations and the results.

41. Claims 1-3, 5, 6, 34-36, 38-42, and 44, as understood by the Examiner, are alternately rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes in view of Official Notice.

42. It is the Examiner's principle position that the license file **118** of Hughes inherently discloses a "product key" as claimed by Applicants. However, the Examiner provides the following alternate grounds of rejection in case a reviewing body finds a product key not to be inherent.

43. As to claim 1, Hughes shows: A method comprising:

ee. receiving a request (message that sends "PID + H/W ID" in "Activation Server" **334** in Figure 2) transmitted over a communication network **336** from an electronic device **20** operatively connected to the communication network (communication occurs through the network, [0041]) requesting a product identification code ("license file," Figure 2; **118**) for a previously purchased product **222** that was purchased and provided ("Install," Figure 2) to the electronic device in a disabled state (not activated) before the request was transmitted (product is enabled after the calculated license matches the

received license, [0043]), wherein the request includes an identification from the electronic device (“PID” product identifier and “H/W ID” hardware identifier, Figure 2);

ff. finding a product identification code comprising the product key, which are associated with the identification (“The activation unit 110 checks the database 114 for any prior records involving the product ID,” [0054]; Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2);

gg. retrieving the product identification code comprising the product key, which are associated with the identification from a database of product codes (“the activation unit 110 evaluates the hardware IDs associated with the product IDs, Id.);

hh. responsive to said retrieving, sending the product identification code to be delivered to the electronic device (Figure 2 & “the activation unit will compute a new license file, return it to customer computer,” [0054]);

ii. delivering the product identification code to the electronic device (“The activation server 334 returns the license file over the network 336 to the customer computer 20,” [0041] & Figure 3, Step 160);

jj. wherein the product identification code comprising the product key, in response to being delivered to the electronic device, converts the product from the disabled state to an enabled state that enables use of the previously purchased product on the electronic device (product is enabled when the calculated license matches the received license, [0043]), said previously purchased product not being usable on the electronic device until being enabled with the product identification code (Id.).

44. Hughes does not expressly show a product key. However, the Examiner takes Official Notice that product keys are old and well known in the art because historically, software frequently came with a code in the booklet or in the case with a code that had to be entered in order for the software to be installed and run. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Hughes to use the "license file" as a product key because a product key is unique to the copy of the software and the "license file" of Hughes is a hash of unique values which also results in a statistically unique number.

45. As to claim 2, Hughes further shows:

kk. copying the product identification code to a database **114** when the product is purchased, the copying the product identification code to the database including associating the product identification code with the identification in the database (Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2).

46. As to claim 3, Hughes further shows:

ll. the finding the product identification code further comprises finding the product identification code in the

database using the identification of the received request (“PID” and “H/W ID” are used to find the license file, [0054]).

47. As to claim 5, Hughes further shows:

mm. the identification identifies the electronic device (“H/W ID” [0015]).

48. As to claim 6, Hughes further shows:

nn. the identification identifies a customer (identifying the customer’s electronic device also identifies the customer indirectly).

49. As to claim 34, Hughes further shows:

oo. sending the product identification code and the identification to a server when the product is purchased [0032] – [0034]; and

pp. copying the product identification code and the identification to a database on the server (“the customer registers the software product with the activation authority,” [0034]).

50. As to claim 35, Hughes further shows:

qq. retrieving the product identification code from the server to enable use of the product on the electronic device when the product is reinstalled on the electronic device [0047].

51. As to claim 36, Hughes further shows:

rr. inserting the product identification code into an installation routine for reinstalling the previously purchased product to enable use of the product on the electronic device [0047].

52. As to claim 38, Hughes further shows:

ss. the request for the product identification code is sent by the electronic device during an attempt to install the product on the electronic device [0016].

53. As to claim 39, Hughes further shows:

tt. the request for the product identification code is sent by the electronic device as a part of an installation process to install the product on the electronic device [0016].

54. As to claim 40, Hughes further shows:

uu. the request by the electronic device is transmitted (Figure 2) over a network **336**, and the product identification code is sent over the network to the electronic device (Figure 2).

55. As to claim 41, Hughes further shows:

vv. the product was previously loaded on the electronic device making the request, and the request for the product identification code is made as part of a reinstallation process for the product on the electronic device [0047].

56. As to claim 42, Hughes further shows:

ww. the sending of the product identification code does not include sending the product for which the product identification code enables use (Figure 2).

57. As to claim 44, Hughes further shows:

xx. An apparatus **334** comprising:

yy. a controller including a processor (inherent for a server to perform anything); and

zz. a storage device (inherent to the existence of software on the server), wherein the storage device includes instructions (**110**, [0035]) , which when executed on the processor cause the controller to:

vii. receive a request (“PID + H/W ID,” Figure 2) from an electronic device **20** transmitted over a communication network **336** requesting a product identification code (“license file,” Figure 2; 118) for a previously purchased product **222** in response to installation (“Install,” Figure 2) or reinstallation [0047] of the product on the electronic device, the request including an identification PID” product identifier and “H/W ID” hardware identifier, Figure 2) from the

electronic device and being received by the controller in response to installation or reinstallation of the product onto the electronic device by the user (Figure 2);

viii. in response to receiving the request, find and retrieve a product identification code comprising the product key, which are associated with the identification (“The activation unit 110 checks the database 114 for any prior records involving the product ID,” [0054]; Database 114 contains table 116 which includes PID, H/W ID, and License file, Figure 2); and

ix. send the product identification code that was retrieved in response to receiving the request to the electronic device over the communication network to be inserted into an installation routine during installation or reinstallation of the product (Figure 2 & “the activation unit will compute a new license file, return it to customer computer,” [0054]) and convert the product from a disabled state in which the product is not usable on the electronic device into an enabled state in which the product is usable on the electronic device (product is enabled when the calculated license matches the received license, [0043]).

Claim Interpretation

58. The Examiner hereby adopts the following interpretations under the broadest reasonable interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997), the Examiner points to these other sources to support his

interpretation of the claims.¹ Additionally, these interpretations are only a guide to claim terminology since claim terms must be interpreted in context of the surrounding claim language. Finally, the following list is not intended to be exhaustive in any way:

aaa. ***Database:*** “a collection of data organized esp. for rapid search and retrieval (as by a computer).” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

bbb. ***Identification:*** “evidence of identity.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

ccc. ***Identifier:*** “one that identifies.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

ddd. ***Identify:*** “to establish the identity of.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

eee. ***Identity:*** “the distinguishing character or personality of an individual.” Webster's Ninth New Collegiate Dictionary, Merriam-Webster Inc., Springfield MA, 1986.

Response to Arguments

59. Applicant's arguments filed 5 November 2009 (“November Remarks”) and 1 December 2009 (“December Remarks”) have been fully considered but they are not persuasive.

60. Applicants argue:

¹ While most definition(s) are cited because these terms are found in the claims, the Examiner may have provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions themselves or in the prior art.

61. “Hughes further teaches to transmit a "license file" to a customer computer. The license file is a hash value of a concatenated product ID and hardware ID (7 [0040]). The hash value is derived using the product ID, however, it would not include the product ID. Therefore, transmitting the license file (i.e., the hash value) to the customer computer cannot teach the claimed step of "delivering the product identification code comprising the product key to the electronic device." The hash value is not a product identification code comprising a product key. Further, one of ordinary skill in the art would not understand a hash value as being a product identification code, given that different software products could result in the same hash value. Nowhere does Hughes teach that hash values are unique to respective software products” (November Remarks, Page 7, Paragraph 3).

62. Examiner's response:

63. The Examiner agrees that Hughes teaches the transmission of a license file. The Examiner also agrees that Hughes teaches the creation of a hash of the “product ID” and the “hardware ID.” However, the Examiner has not correlated the “product ID” of Hughes to the claimed “product code.” The Examiner has correlated the “license file” to the “product code.” As noted in the rejection under 35 U.S.C. § 112 2nd above, one of ordinary skill in the art would not understand what “a product identification code comprising a product key” is. The hash uses the product ID and the hardware ID to create a value which is unique to the combination of the software and hardware. If the hardware changes, the hash value changes and the program will not be allowed to operate [0044].

64. Also, the Examiner notes that hashes are used to create statistically unique integrity values (SET, Book 2, Page 43). Therefore, one of ordinary skill in the art would recognize a hash value as a unique identifier. In Hughes, the hash value uniquely identifies the combination of the software and the computer it is installed on. Therefore, the hash value uniquely identifies a particular instance or installation of the software. Moreover, Applicant does not claim that the "product identification code is unique to the software product."

65. The Examiner also notes that the alleged technical fields of the Hughes reference and the instant claims is irrelevant to the fact that the claimed method and system are shown by Hughes. Infringement/anticipation is based on the possession of the structure or performance of the method not on the reason behind the possession or performance.

Conclusion

66. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

67. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

68. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

69. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

70. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough
Examiner, Art Unit 3621

/EVENS J. AUGUSTIN/
Primary Examiner, Art Unit 3621